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Dear Jon

Consultation on getting more out of our electricity networks by reforming access and forward-looking charging arrangements

1. Please find below the response from Energy Networks Association (ENA) to the above consultation in which Ofgem seeks views on the prioritisation of options for addressing potential future issues identified with the current arrangements for the allocation of network capacity and charging for the associated network usage. It also asks for views on taking this forward under a Significant Code Review (SCR).
2. ENA welcomes the opportunity to respond to this consultation. ENA members' individual responses will cover the proposals relating to the scope of the proposed review of access and forward looking network charging. This response focuses on the questions set out under chapter five of the consultation document on the scope of the proposed SCR and how priority areas identified could best be taken forward.

About ENA and our members

3. ENA represents the "wires and pipes" transmission and distribution network operators for gas and electricity in the UK and Ireland. This response comes on behalf of our Electricity Networks members who control and maintain the critical national infrastructure that delivers vital services into customers' homes and businesses.

Response to Questions under Chapter 5: Scope and Leadership of the Review

4. In principle, any of the options for the scope and leadership of a future SCR, as set out in the consultation, could be followed and could result in the delivery of desired outcomes. ENA members recognise that there are various strengths and weaknesses with each of the options. **After consideration our members' view is that the all-round most effective, efficient, robust and transparent approach would be a SCR that is comprehensive in scope with an end-to-end process to develop code modification(s) led by Ofgem i.e. 'Option C' combined with 'Option 3'.** ENA members recognise they will have the same key role to play in the delivery of this review under any of the options chosen and the ENA are happy to fulfil the role of secretariat for the SCR, as detailed later in this response. Below we set out a number of pros and cons identified with each of the options.

Scope of a Significant Code Review

5. **An 'Option C' comprehensive SCR approach would maximise consistency and coherence across the different aspects of the SCR. It would avoid the risk of divergence, inconsistency and conflict that could otherwise result from following the alternative options with a twin-track Ofgem and industry-led approach.**
6. We acknowledge the points made by Ofgem in support of its 'initial view' including the desire for quick-wins. However, given the interplay across the various commercial arrangements that exist between network users, significant changes are highly likely to create winners and losers. Such changes will therefore be contentious; involve significant cross-code and code-licence issues; and have consequences for the electricity sector price controls and wider energy policy.
7. An 'Option C' comprehensive SCR approach avoids weaknesses inherent in the 'Option A' narrow and 'Option B' moderate SCR approaches. Under 'Option B' it is difficult to see how a '*review of allocation of access rights*' could be undertaken in advance of a '*review of definition and choice of access rights for small and large users*'. Similarly, under 'Option A' it is difficult to see how a SCR could consider '*options to improve definition and choice of access rights*' for smaller users with industry considering the same for larger users. Providing such a clear distinction between large and small users may prove difficult to achieve, with a risk the SCR and industry-led work diverge leading to a regulatory boundary between large and small users, across which there could be gaming opportunities.
8. Taking an 'Option C' comprehensive SCR approach also avoids the need for a statutory consultation on licence changes (necessary under Options A&B). A statutory consultation would slow down the process and introduce additional regulatory burden on Ofgem and ENA members due to the need to unambiguously demonstrate compliance. Whilst a licence obligation would make each individual network company accountable, the progression of discreet areas of work in parallel to and outside of a SCR will require licensees to work collectively. It would not therefore be possible for a single licensee to meet the new licence obligation on its own. **We re-iterate the ENA members' strong support for the proposed reforms and commitment to assist in their delivery, so do not see the need for a new licence obligation.**
9. **In addition, we consider a focused Ofgem-led stakeholder engagement and consultation process, as part of a single work programme, will be more effective and add greater value to the review process than an industry-led process, due to the prominence of Ofgem and its already established stakeholder communications infrastructure.** Under such an approach, ENA members would continue to make a significant contribution to the stakeholder engagement process. We would expect this to include raising awareness and encouraging stakeholders to engage in the Charging Futures Forum and wider Ofgem led process, recognising that such engagement will yield better results through Ofgem's central coordination and consistent messaging.

Quick-wins

10. **We believe a comprehensive scope approach would not preclude the identification, progression and early implementation of quick wins ahead of conclusion of the wider SCR.**

11. Code modifications could be raised at key points within the scope of the SCR to address conclusions reached on a given area. Whilst such changes will clearly overlap with the SCR, arrangements under the Connection and Use of System Code (CUSC 8.17.4) and Distribution, Connection and Use of System Agreement (DCUSA Clause 10.22 of Section 1c) allow modifications to proceed where Ofgem determines this to be appropriate. Hence if a conclusion is reached on a given area early in the SCR process, Ofgem can allow a code modification to proceed in that specific area whilst the SCR is ongoing, without the need to formally amend the scope of the SCR. Whilst this arrangement may not allow Ofgem to direct industry to raise code modifications (as it is understood that Ofgem is only able to issue a single (set of) direction(s) on conclusion of a SCR), ENA members are committed to working with Ofgem throughout this process, and are willing to raise code modifications without the need for formal direction.
12. Whilst we have highlighted below potential weaknesses and risks of taking modifications forward outside of the SCR under the usual working group based code governance structure, this should not preclude the above approach, which involves clear definition within the SCR of the change to be taken forward before it is progressed under code governance structures. **This approach provides maximum optionality and will allow decisions to be made on whether to utilise the usual code governance route once there is clear understanding of the need and/or attractiveness of exercising the option.**
13. **We are therefore confident that the prospects for delivering quick wins can be maximised under an 'Option C' SCR by careful project planning and effective delivery including prioritisation of milestones and defining clear outcomes and work structures as part of a coherent and well managed process.**

Role of the ENA members

14. Our members agree that the network companies have the necessary capability to play a leading role in taking reforms forward. They have key expertise on how the networks are planned and operated, how this is reflected in access and charging arrangements and a deep understanding of the GB network user demographic and their wants and needs. A central role also makes the networks well placed to ensure timely implementation of any non-code changes and will ensure coherence with initiatives such as ENA's Open Networks Project.
15. As noted previously, ENA members have long established relationships with a range of network users that can be drawn upon to maximum effect and compliment the aforementioned wider and more comprehensive Ofgem-led stakeholder activities.
16. **Overall we believe that the potential advantages that Ofgem attaches to the narrower scope options can be realised under a comprehensive scope SCR in addition to avoidance of potential downsides of the other options.**

Leadership of the SCR process

17. Given the relatively early stage in this process ENA members agree it prudent to keep open the option to revise any approach as the review progresses.

18. **Having considered the three options set out in the consultation, on balance ENA members' preference is 'Option 3' end-to-end code modification process.** We note that Options 1 and 2 appear very similar, with the only differential being who raises modification proposals before they are developed under code governance arrangements. Both Options 1 and 2 have the following weaknesses:
- **Duplication and Timing:** There is the potential for double-working and unnecessary delay, with the work undertaken by the SCR in developing code modifications being done again by a working group under the relevant code governance framework. Whilst this can create a 'check point' for changes which the SCR proposes (those changes would be reviewed by a new working group under code governance processes), the same validation of proposed solutions could be dealt with more effectively by thorough consultation throughout the progression of the SCR.
 - Modifications developed under code governance, particularly those which are contentious, take time to develop. In the absence of clear guidance from Ofgem, this could put Ofgem's targeted implementation dates at risk.
 - **Complex cross-code issues:** Unless the objectives of a SCR and the relevant code objectives perfectly align (which is not possible given the DCUSA and CUSC objectives do not perfectly align), there is a risk that changes meet the objectives of the SCR but do not meet the objectives of the relevant code, making it difficult for a working group to progress a change. Whilst Ofgem can take a wider view (i.e. its statutory duties) when deciding on whether or not a change can be implemented, a working group under code governance arrangements can only consider the code objectives, so a working group may find itself facing barriers to the progression of a given change.
 - Divergence could occur between Ofgem's intent when directing a party to raise a modification, and the proposed solutions developed under code governance.
 - **Misaligned incentives:** The SCR and proposals taken forward under it could have a significant impact on the way in which network costs are allocated to existing and future network users. The potential for financial impacts on existing and future network user investments creates a risk that the incentives of industry participants in the process may be misaligned with outcomes in the best interest of consumers. This risk can best be mitigated by Ofgem playing a central role in the SCR and subsequent code modifications, applying strong leadership, direction and oversight.
19. **'Option 3' avoids the above weaknesses and places Ofgem, industry and wider stakeholders in the best overall position for changes to be delivered in an effective, efficient and timely manner.**

Timing and Investor Certainty

20. The launch of a SCR will unavoidably create uncertainty for investors in the energy market. The premium on delivering clear and timely outcomes cannot therefore be underestimated and must be a major factor when considering options for the scope and process for a SCR.

21. **In this respect we believe delivery of 'quick-wins' and early certainty for the market will be maximised by an 'Option C' and 'Option 3' approach and getting the project planning and delivery right.**

Potential role for ENA

22. The proposed SCR will require a competent supporting secretariat that can provide high quality planning and co-ordination and an effective supporting administrative structure, with the necessary levels of resource, knowledge, experience and expertise.
23. ENA has a proven track record in providing these services having carried out the role of Secretariat for the CFF Access and Forward Looking Charges Task Forces. ENA believe the experience and learning gained from the CFF task forces together with its unique position to provide maximum visibility and co-ordination across wider related initiatives such as ENA Open Networks Project and future Price Controls make it uniquely placed to fulfil this role.
24. ENA would welcome the opportunity to support Ofgem, the network companies and wider stakeholders in the successful delivery of any programme of work to reform current access and forward looking charges, and is able to commit the necessary resource.

If you have any questions on the points raised in this response, please contact John Spurgeon, Head of Regulatory Policy email: john.spurgeon@energynetworks.org

Yours sincerely,



David Smith
Chief Executive